

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE TERRORIST ATTACKS ON SEPTEMBER 11, 2001) No. 03 MDL 1570 (RCC)
) ECF Case
)

This document relates to:

BURNETT, *et al.* v. AL BARAKA INVESTMENT & DEVELOPMENT CORP., *et al.*, Case No. 03-CV-5738;

EURO BROKERS, INC., *et al.* v. AL BARAKA INVESTMENT AND DEVELOPMENT CORP., *et al.*, Case No. 04-CV-07279;

FEDERAL INSURANCE CO., *et al.* v. AL QAIDA, *et al.*, Case No. 03-CV-6978;

NEW YORK MARINE AND GENERAL INSURANCE CO. v. AL QAIDA, *et al.*, Case No. 04-CV-6105;

WORLD TRADE CENTER PROPERTIES LLC, *et al.* v. AL BARAKA INVESTMENT AND DEVELOPMENT CORP., *et al.*, Case No. 04-CV-07280.

**DECLARATION OF ALAN R. KABAT
IN SUPPORT OF DEFENDANTS SAFER AL-HAWALI'S
AND SALMAN AL-OADAH'S
CONSOLIDATED MOTION TO DISMISS**

I am an attorney licensed to practice in the District of Columbia and am admitted *pro hac vice* in this matter. I am with the law firm of Bernabei & Katz PLLC, counsel to Safer Al-Hawali and Salman Al-Oadah. I submit this declaration to transmit to the Court the following document submitted in support of Sheikhs Al-Hawali's and Al-Oadah's Reply Brief in support of their Motion to Dismiss:

1. Exhibit 1 to defendants' reply brief is a copy of the posting by the SITE Institute, "Idaho Arrest Puts Muslim Students Under U.S. Scrutiny," dated May 30, 2003, online at: <<http://www.siteinstitute.org/bin/articles.cgi?ID=publications503&Category=publications&Subcategory=0>>.
2. Exhibit 2 to defendants' reply brief is a copy of the article by Paul Barrett, "Idaho

Arrest Puts Muslim Students Under U.S. Scrutiny, Examination," *Wall Street Journal*, May 28, 2003, at A-1.

I declare under the penalties of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on September 27, 2005.

Alan R. Kabat
ALAN R. KABAT

Exhibit 1

Sheikh Safer Al-Hawali's
and
Salman Al-Oadah's
Reply Brief

03 MDL No. 1570 (RCC)



SITE Publications

Idaho Arrest Puts Muslim Students Under U.S. Scrutiny

By SITE Institute

Published in: SITE Institute

May 30, 2003

The Wall Street Journal reported on May 28 that the arrest of Idaho graduate student Sami al-Hussayen indicates that the U.S. is increasingly looking at students' activities in the country and whether they may be contributing to an atmosphere that encourages or approbates terrorism. Al-Hussayen while an active student at the University of Idaho in Moscow was also an official at the Islamic Assembly of North America (IANA), which according to the FBI, produced virulently anti-American websites that exhorted people to jihad against the West and non-Muslims. SITE Institute Director Rita Katz noted that often these websites have their radical content available only in Arabic, presenting themselves with a deceptively moderate face in the English versions of the website. Portions of the article are reproduced below, and the whole article can be viewed at [http://online.wsj.com/article/0,,SB105406885465552500-search,00.html?collection=wsjie/2day&vql_string=muslim%20students%20association\(article-body\)](http://online.wsj.com/article/0,,SB105406885465552500-search,00.html?collection=wsjie/2day&vql_string=muslim%20students%20association(article-body)). To learn more about IANA, please read Rita Katz and Josh Devon's piece on IANA in the National Review Online at <http://www.nationalreview.com/comment/comment-katz-devon031103.asp>. ----- Idaho Arrest Puts Muslim Students Under U.S. Scrutiny, Examination Saudi Accused of Aiding Extremists; Supporters Cite Free-Speech Rights By PAUL M. BARRETT Staff Reporter of THE WALL STREET JOURNAL MOSCOW, Idaho -- In the days after Sept. 11, 2001, Sami Omar al-Hussayen led fellow Muslims as they joined an emotion-charged candlelight march remembering the dead. The Saudi graduate student in computer science at the University of Idaho helped organize a blood drive for victims. He issued a press release on behalf of the Muslim Students Association, stating that the small town's Muslims "condemn in the strongest terms possible what are apparently vicious acts of terrorism against innocent citizens." That's why people in this rural university town were so surprised on Feb. 26, when Federal Bureau of Investigation agents arrived before dawn in unmarked vehicles at Mr. Hussayen's home to arrest him. The agents rousted him from bed and took him away in handcuffs. Over the next two days, most members of the campus MSA, which Mr. Hussayen formerly headed, were interrogated about their immigration status, extracurricular activities and views of the U.S. . . . The government says in court filings that on Sept. 11, 2000, Mr. Hussayen registered the Internet site www.alasr.ws, an Arabic-language online magazine. The site is produced by IANA and provides links to other IANA sites, according to Rita Katz, a Washington-based terrorism researcher who is a native Arabic speaker and has consulted with the government on the Hussayen case. In June 2001, [alasr.ws](http://www.alasr.ws) carried an article by a Saudi-trained Kuwaiti cleric titled, "Provision of Suicide Operations," according to an excerpt of an English translation in court papers. "The warrior must kill himself if he knows that this will lead to killing a great number of the enemies, and that he will not be able to kill them without killing himself first, or demolishing a center vital to the enemy or its military force," wrote Sheik Hamed al-Ali. "This can be accomplished with the modern means of bombing or bringing down an airplane on an important location that will cause the enemy great losses." Ms. Katz, the director of the SITE Institute, a nonprofit research group, says, "The English versions of many of these Jihadist Web sites and publications don't have terrorist propaganda; you have to know where to look on the Arabic sites." The English version of the IANA site [islamway.com](http://english.islamway.com) (<http://english.islamway.com>) offers articles on such topics as "Why Can't a Muslim Woman Marry a Non-Muslim Man?" The Arabic-language version of the site in June 2001 carried an article advocating suicide bombings against "unbelievers who have declared war against the Muslims," according to FBI filings in the Hussayen case.

<http://siteinstitute.org/bin/articles.cgi?ID=publications503&Category=publications&Subcategory=0>

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Exhibit 2

Sheikh Safer Al-Hawali's
and
Salman Al-Oadah's
Reply Brief

03 MDL No. 1570 (RCC)

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PAGE ONE**Idaho Arrest Puts Muslim Students
Under U.S. Scrutiny, Examination****Saudi Accused of Aiding Extremists;
Supporters Cite Free-Speech Rights****By PAUL M. BARRETT****Staff Reporter of THE WALL STREET JOURNAL***May 28, 2003 8:30 a.m.*

MOSCOW, Idaho -- In the days after Sept. 11, 2001, Sami Omar al-Hussayen led fellow Muslims as they joined an emotion-charged candlelight march remembering the dead. The Saudi graduate student in computer science at the University of Idaho helped organize a blood drive for victims. He issued a press release on behalf of the Muslim Students Association, stating that the small town's Muslims "condemn in the strongest terms possible what are apparently vicious acts of terrorism against innocent citizens."

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WAR ON TERROR

- **Page One:** U.S. Plans to Require Interviews for Most Visa Applicants
05/16/03
- Bush Plan to Curb Foreigners' Studies Scaled Back to Limit Certain Subjects
05/09/02
- Bush May Restrict Areas of Study to Foreigners Amid Security Fears
04/16/02
- INS Toughens Rules on Student Visas, Proposes New Limits on Tourist Stays
04/09/02

Federal investigators say that Mr. Hussayen's public image was a cover for a secret career supporting terrorism. The case against him raises difficult questions about Muslim students who espouse extremist views, or support those who do. Some government officials say the case is part of a broader investigation of current and former Muslim students at Northwest universities who are believed to have ties to U.S. charities linked to foreign terrorists.

Mr. Hussayen has been charged on several counts of visa

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ISLAM ON CAMPUS

The national Muslim Students Association is one of the oldest and most influential Islamic organizations in the U.S.

Founded: January 1963, University of Illinois

Campus chapters: 175

Membership: Tens of thousands (no official statistics)

President: Altaf Husain, 32 years old, an Indian-American graduate student in social work at Howard University in Washington

Offshoots: Major groups founded by MSA alumni include the Islamic Society of North America, one of the largest Islamic groups in the U.S., and the North American Islamic Trust, which holds title to numerous mosques in the U.S.

Source: MSA

Read the full text of Mr. Hussayen's indictment.

See continuing coverage of terror activities and efforts to track down terrorist groups.

bombings.

fraud. The indictment also alleges that he raised money for the Islamic Assembly of North America, a Michigan organization the government is investigating for possibly supporting terrorists in the Middle East. Mr. Hussayen allegedly helped administer Arabic-language Web sites that spew violent anti-Western views and the writings of radical Muslim religious figures who encourage suicide

The FBI says that Mr. Hussayen has communicated often with two radical clerics known as the "awakening sheiks" because of their ideological influence on young Arabs. The clerics are widely recognized as intellectual godfathers of Osama bin Laden's al Qaeda terrorist network. Law-enforcement officials say that they are looking into whether Mr. Hussayen has "provided material support to terrorists," a crime punishable by 15 years in prison.

"Muslim student organizations by and large are good, wholesome and need to be there," says Kim R. Lindquist, the lead federal prosecutor on the Hussayen case in Boise. But, he adds, "under student visas, young people are allowed to stay here, and they can make that transition fairly subtly and fairly quietly from appropriate student activities to a manifestation of things that are inappropriate, including advocacy of radical Islam."

Mr. Hussayen, 33 years old, is being held in jail without an opportunity to post bail. Through his lawyer, David Z. Nevin, he has denied any wrongdoing. "Sami does not hold terrorist views," says Mr. Nevin. "He believes that violence is inconsistent with the tenets of Islam."

Mr. Hussayen's case provides an unusual window into the world of Muslims from abroad studying in the U.S. They are drawn to this country in part by the freedom it offers, but some hold distinctly anti-Western beliefs. Many MSA members across the U.S. say they reject terrorism. Yet many also express respect for the religious and political views of Middle Eastern thinkers who endorse violence against the West. Such seeming contradictions can make it difficult to sort out the positions of some Muslim students. And the situation is especially complex because so many students generally are prone to extreme rhetoric they later moderate.

The Muslim Students Association is a fast-growing network of 175 campus chapters that combine good works, religious studies and leftist international politics. Members have led protests against Israel's occupation of the Palestinian territories and the U.S. war in Iraq.

But there is more. The writings of radical anti-Western Muslim thinkers are promoted on many MSA-chapter sites. MSA chapters also have helped raise money for Muslim charities now accused by the U.S. government of serving as fronts for financing terrorism abroad. Some MSA members receive financial support from Saudi Arabia, which for decades has tried to inculcate young people with a fundamentalist and intolerant version of Islam.

None of these activities are necessarily illegal, and many would seem to be covered by the First Amendment's protection of free speech and religion. Altaf Husain, a native of India and the MSA's 32-year-old national president, says that most young Muslim immigrants and second-generation Muslim Americans interpret radical Islamist messages in unthreatening ways. They screen out calls for martyrdom and violence and instead focus on demands for justice, he says. "Young Muslims love the freedom of religion here," says Mr. Husain, a graduate student in social work at Howard University in Washington.

Muslim friends of Mr. Hussayen's say they knew nothing about his alleged fund-raising and Web-site work. But some of them say they see nothing wrong with such activities. The students shrug off suggestions that it is inconsistent to admire aspects of the U.S., which Mr. Hussayen by all accounts did, and to help set up Web sites that support holy war against the West. One Web site Mr. Hussayen allegedly helped set up carried an article justifying the use of passenger airplanes as terror weapons.

Mr. Hussayen, who is tall and wears a full beard, arrived in Idaho in 1999 to work on a doctorate in computer security. The son of a senior Saudi education-ministry official, he grew up with six siblings in a comfortable home in Riyadh.

As boys, he and an older brother traveled to Britain to polish their English. On two trips with their father to the U.S., they toured Washington, Universal Studios and Disney World. In the mid-1990s, Mr. Hussayen earned a master's degree at Ball State University in Muncie, Ind., and also studied at Southern Methodist University in Dallas.

In Moscow, near the Washington state border and surrounded by verdant farms and pastures, Mr. Hussayen and his wife, Maha, lived modestly in married-student housing. He drove a 1992 Pontiac Bonneville, according to court records.

Mr. Hussayen soon became the leader of the university's Muslim Students Association, which has about 50 members, including Saudis, Pakistanis and Kuwaitis. Many in the group were impressed by Mr. Hussayen's grasp of religion and his kindness, says Marwan Mossaad, a 25-year-old Egyptian immigrant studying architecture and economics, who has permanent-resident status in the U.S.

The small Muslim community in Moscow has no formal imam, or religious leader, and Mr. Hussayen often led Friday prayers at the Islamic Center, a small two-story house near campus. In talks at the mosque, Mr. Hussayen would sometimes "include some politics," such as criticism of Israel and the U.S. policy toward Iraq, says Mr. Mossaad. "But it was more about religion itself and fasting and things like that."

Within Muslim circles on campus, the dozen or so Saudi students tend to be the most socially conservative. Mr. Mossaad, now president of the university's MSA, says that other than in an emergency, he wouldn't offer a ride to Mr. Hussayen's wife for fear of offending Saudi sensibilities.

Still, Mr. Hussayen appeared at ease with many aspects of American life. The eldest two of his three young sons have gone to public school and played on soccer teams. They have skateboards and speak better English than Arabic, according to Mr. Hussayen's brother, Abdul, a 34-year-old cardiologist in Toronto. "Their culture has been the culture of the United States kids," he said in court testimony in March. He recalled that he and Sami had joked about how hard it would be to go back to Saudi Arabia, because they both enjoyed living in the West.

The Saudi government paid Mr. Hussayen's educational expenses, plus a \$2,700 monthly stipend. It is now paying his legal expenses, says Nail al-Jubeir, spokesman for the Saudi Embassy. He says that his government financially supports roughly 3,500 Saudi students at U.S. colleges and universities. The Saudi government doesn't directly support the MSA, Mr. Jubeir says. But Saudi government-backed charities and individual Saudis, many of whom went to American universities or are parents of students in the U.S., have given money to Muslim campus groups since they

began in the U.S. 40 years ago. And Saudi Arabia annually provides scholarships to hundreds of Americans to go to the Persian Gulf kingdom to study Islamic law and Arabic.

As one of three student members on a campus ethnic-diversity committee, Mr. Hussayen impressed the chairman, Raul Sanchez, a university administrator, as open-minded and mature. "I very much hope he comes back to the university and finishes his education," Mr. Sanchez said at the March court hearing in Boise.

Federal officials, in court papers and interviews, portray a far more dangerous image of Mr. Hussayen. Four months before the Sept. 11 attacks, on May 11, 2001, the FBI says in court filings, Mr. Hussayen registered with the state of Idaho as the official agent of the Islamic Assembly of North America, based in Ann Arbor, Mich. He had already been helping set up and administer about 10 Muslim Web sites, most of them affiliated with IANA or linked to IANA sites, the government says in court papers. Prosecutors haven't accused him of choosing material for the sites.

Founded in 1993, IANA says on one of its English-language Web sites that its mission is spreading "correct knowledge of Islam." Its target audience includes young people and prison inmates. Federal investigators are looking into whether IANA was involved in raising money for foreign terrorists and raided the group's offices in February. According to U.S. law-enforcement officials, IANA Web sites in Arabic exhort readers to jihad, or holy war, against Jews and other "unbelievers." On Sept. 9, 2001, the Arabic version of the IANA site (www.islamway.com) carried a posting in which the author advocated jihad as "the only means to eradicate all evil on a personal and general level," according to an excerpt in an FBI court filing. "The only answer is to ignite and trigger an all out war, a world-wide jihad." U.S. officials declined to provide the Arabic text. After Sept. 11, 2001, the English-language version of the same site condemned the killing of innocents in the U.S. terror attacks.

The government says in court filings that on Sept. 11, 2000, Mr. Hussayen registered the Internet site www.alasr.ws, an Arabic-language online magazine. The site is produced by IANA and provides links to other IANA sites, according to Rita Katz, a Washington-based terrorism researcher who is a native Arabic speaker and has consulted with the government on the Hussayen case. In June 2001, [alasr.ws](http://www.alasr.ws) carried an article by a Saudi-trained Kuwaiti cleric titled, "Provision of Suicide Operations," according to an excerpt of an English translation in court papers.

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The English version of the IANA site islamway.com (<http://english.islamway.com>) offers articles on such topics as "Why Can't a Muslim Woman Marry a Non-Muslim Man?" The Arabic-language version of the site in June 2001 carried an article advocating suicide bombings against "unbelievers who have declared war against the Muslims," according to FBI filings in the Hussayen case.

U.S. officials say that Saudi-backed organizations and Saudi individuals have provided most of IANA's funds. Mr. Jubeir, the Saudi Embassy spokesman, says the Saudi government hadn't provided any funding to IANA and considers its religious views "extremist."

IANA didn't respond to repeated requests for comment, but it has previously denied supporting terrorism.

Mr. Hussayen allegedly raised at least \$300,000 over five years for IANA. He used six bank accounts to collect and disburse the money and had extensive e-mail and telephone contact with the organization, the FBI said in court filings and testimony. About \$100,000 of the money allegedly came in two installments from the student's uncle, Saleh Abdel Rahman al-Hussayen. The elder Mr. Hussayen could not be reached.

According to the government, Sami Hussayen's questionable activities also included his extensive contacts with the two radical clerics, Salman al-Ouda and Safar al-Hawali. U.S. officials say the two influenced al Qaeda's belief that Muslims should wage holy war against the U.S. until it ceases to support Israel and withdraws from the Middle East.

Tapes of Mr. Ouda's sermons, which are distributed throughout the Middle East, were found in a bin Laden residence in Afghanistan, according to the FBI. Phone records also showed that Mounir el-Motassadeq, convicted in February in Germany of aiding the Sept. 11 hijackers, had made calls to the clerics.

Mr. Hussayen also made numerous calls and wrote many e-mails to the two clerics, sometimes advising them about running Arabic-language Web sites on which they espoused their anti-Western views, the FBI alleges.

Mr. Hussayen came to the attention of the FBI when it was contacted by an employee of a bank branch in Moscow. After Sept. 11, the employee noticed an increase in deposits in Mr. Hussayen's previously modest accounts and became suspicious.

The 11-count indictment of Mr. Hussayen accuses him only of visa fraud and making false statements. It alleges that while he claimed on several visa applications that he wanted to come to the U.S. "solely" to study, he in fact pursued more ominous interests once he got here.

At the court hearing in March, Mr. Nevin, Mr. Hussayen's lawyer, pointed out that his client didn't conceal his activities. The six bank accounts he allegedly used to channel money to IANA were in his own name. He openly registered as the group's agent. Terrorists don't operate that way, the lawyer argued.

As for his client's alleged role in helping set up Web sites, Mr. Nevin compared Mr. Hussayen with the operator of an online "chat room." Site administrators don't always endorse the views expressed by users, he noted, and offensive opinions are protected by the First Amendment. "Sami believes the resolution of these [international] problems is in the marketplace of ideas and by intellect, not violence," Mr. Nevin says in an interview.

In Moscow, some Muslim students say they don't see why engaging in the activities their friend is accused of would violate the law. They note that Muslim students from abroad are attracted to the U.S. precisely because they want to enjoy its freedom of expression. If Mr. Hussayen raised money for a Saudi-backed nonprofit devoted to spreading Islam, his friends say, they applaud

him.

Many MSA members sympathize with radical clerics' criticisms of the U.S. and Israel, without endorsing the terrorism of al Qaeda, says Ahmad al-Own, a 20-year-old University of Idaho sophomore from Kuwait and a friend of Mr. Hussayen. "These are top scholars, brave men," who have served prison time in Saudi Arabia for criticizing that country's relationship with the U.S., Mr. Own says. Sipping coffee in a trendy campus cafe, he wears an Adidas baseball cap and a jersey of black and gold, the colors of the University of Idaho Vandals sports teams.

Mr. Own says that contacting the two controversial clerics isn't unusual, although he hasn't done it. "You can call to ask advice" on religious questions, Mr. Own says. "I don't find it shocking for Sami to have their phone numbers or that he sent them e-mail."

English-language versions of writings by the two sheiks are widely available on the Internet and sometimes are posted on the Web sites of campus MSAs. The University of Southern California's MSA recently posted an article by Mr. Ouda in which he argues that "the security of the world is threatened" by "the Jews" and others in "political circles and institutions with executive power in the West."

In response to questions, a spokesman for the USC Muslim group, Nauman Shafi, said in a written statement that it doesn't share the cleric's views, that the site receives "hundreds of submissions, and not every article is fully reviewed before being posted."

Shadi Hamid, the U.S.-born son of an Egyptian-American family who just finished his junior year at Georgetown University in Washington, says there is nothing wrong with student interest in radical Muslim thinkers. "The whole essence of America is questioning the government, criticizing, dissenting -- that's the affirmation of patriotism," says Mr. Hamid, 19, who is chairman of the national MSA's Political Action Task Force.

Muslim students also criticize the investigation of IANA. "The Bush administration seems to think every Muslim charity is terrorist. That's ridiculous," says Mr. Mossaad, the architecture and economics student at Idaho.

This is a common view among Muslim students. The national MSA until this month provided links on its Web site to U.S.-based Muslim charities whose assets the Bush administration froze in December 2001, because they allegedly funneled money to terrorist groups. The organizations are the Benevolence International Foundation and the Global Relief Foundation, both of which have been accused of having ties to al Qaeda, and the Holy Land Foundation, allegedly a front for the Palestinian group Hamas. The MSA removed the links earlier this month after a Wall Street Journal reporter asked about them. Mr. Husain says it had been "an oversight" not to remove them sooner. Lawyers for the three charities denied their clients had any ties to terrorism. The head of the Benevolence International Foundation pleaded guilty in February to one count of racketeering for funding Muslim fighters in Chechnya and Bosnia, but not for supporting al Qaeda.

Before the charities were shut down, the MSA helped raise money for them, Mr. Husain, the national president, says. He adds that he doesn't believe the charges against the charities because the government, in his view, hasn't provided sufficient evidence. The national MSA site still has a link to an IANA site.

Mr. Hussayen's lawyer, Mr. Nevin, says he hasn't yet reviewed even a tiny fraction of the

government's voluminous evidence and therefore declines to offer a full-fledged defense. In court proceedings, he has suggested that even if the allegations are true -- which he doesn't concede -- his client wouldn't have violated any laws. At the hearing in March, Mr. Nevin accused the government of using "innuendo and guilt by association" to tie Mr. Hussayen to terrorism. "You're not required to swear a loyalty oath or to write a long dissertation explaining all of the reasons that you love the culture before you're allowed to come here and have the benefits of our system," he said.

Write to Paul M. Barrett at paul.barrett@wsj.com

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